IN THE HIGH COURT OF SIKKIM

ORDER SHEET

Writ Petition (C) .....No. 28 of 2007

Karmapa Charitable Trust & Ors... Petitioner / Appellant

Versus

The State of Sikkim & Others ..... Respondent

Serial No. of Order	Date of Order	Order with Signature	Office Note as to action (if any) taken on Order
1.	1.10.07	Present: Mr. Adhip Iyer, Advocate assisted by Mr. N.T. Bhutia, Advocate for the Petitioners. Mr. J.B. Pradhan, Government Advocate for State-Respondents. ... This is an application invoking the superintendence jurisdiction of the High Court as against an order passed on 20.6.2007 by Mrs. Meenakshi M. Rai, our present Registrar General, sitting as District Judge, Special Division-I (I/C) dismissing the application of the applicant made under Section 151 of the Code of Civil Procedure. The application was made on the apprehension that there might have been theft of the property which are involved in the suit. The suit is concerned with, and only with, the Rumtek Monastery and extremely valuable and sacrosanct religious items lying there.	

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		Before other details are mentioned it has to be stated in the beginning, and emphasized, and emphasized again, that the suit is at the instance of persons who have a long and steep uphill task to establish their right or identity to interfere with the workings of the Rumtek Monastery, a well known and famous monastery here. The plaintiffs, including the plaintiffs 2 and 3 support the case that one Thaye Dorje is the 17th Karmapa who is entitled to assume the office after the death of the 16th Karmapa in 1981. A Karmapa is a very high, the highest, head of a sect of Tibetan Buddhists. This person, as was told to the Court on behalf of the applicant, allegedly resides in Kalimpong. This is said with a lot of hesitation and the hesitation can be well understood because the self proclaimed Karmapa has apparently no papers to enter the State of Sikkim. The plaintiff No. 3 who claims to be the Shamarpa under the said Karmapa also does not have papers for entering Sikkim and has filed a writ which would help him in that regard. The same learned counsel, who on a particular day	

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		appeared in support of that writ before me, also appeared before the lower Court in this matter. So far as this Court can recall there was something stated at that time about the party residing in USA at that point of time. The plaintiff No. 1 is a trust allegedly established by the earlier, i.e., the 16th Karmapa who died in 1981. The second plaintiff is allegedly a trustee. About the trust funds, not much information could be furnished to Court. The suit is also filed as many as 17 years after the death of the 16th Karmapa. All these show that the right of the plaintiffs, or the 17th Karmapa whom they support, need a lot of proof and substance before the Court can act even for interlocutory purposes thereupon. It was stated in Court today that the Respondent No. 3, the alleged Shamarpa lives in New Delhi; the cause title is to the same effect. At the instance of such outcasts from Sikkim, it is extremely difficult for the Court to	

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manipulate or delve into items of religious sanctity lying in a reputed Monastery.

An application was earlier made for inventory in this very same suit filed by these plaintiffs and orders were passed in the trial Court in 2001 and 2002 and also by the High Court on 18.06.2002 on the basis of which the Commissioner visited the Monastery and filed his report dated 22.07.2002. Allegedly the report was filed in Court (as alleged on behalf of the applicant) in December 2005.

The details of what parties said before the Commissioner during his visit at the Monastery, are available in the Annexures to the present petition.

The application today has been pressed around at Black Hat or Vajra Mukut which is the centre piece of all the items and which is supposed to adorn the head of the Karmapa and the Karmapa alone. It is a crown presented by the then emperor of China in the 15th Century with numerous precious stones like Rubies. Not

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		everybody has seen it and not everybody can see it; only the Karmapa himself can touch it. In the Rumtek Monastery there is a box sealed by the monks, authorized by the present Karmapa (according to the persons who are in charge and in possession of the Monastery now), ~~and~~ who resides at present with the Dalai Lama, and those seals were identified on behalf of the respondents when the box was pointed out as the one containing the Vajra Mukut. The persons who were representing the respondents then said that they were not in a position to say whether the box contained the Vajra Mukut or not but that they were only in a position to say whether the seals on the box were genuine and put there on behalf of the Karmapa (the true one, who is now with the Dalai Lama) by the monks following him. And of this Vajra Mukut, the plaintiffs would now want a photograph taken, under fresh Orders of Court.	

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Clearly it is a tall claim and not to be acceded to by any Court unless the plaintiffs show that their master and guide, the purported 'alternative' Karmapa, Thaye Dorje, who is not even a party to the suit, has some semblance of right to the office of the Karmapa at present, though he is not in any manner recognized by that head, revered all over, who is the Dalai Lama himself.

The Court order previously mentioned that the visual impression might be taken but that boxes were not to be opened. The State argues that even the box containing the Black Hat might not be so easily touched by anybody excepting the 17th Karmapa on whose behalf the crown was put into the box in the first place.

Further and other facts necessary for disposal of this application are recorded with accuracy and efficiency in the order of Mrs. M.M. Rai dated 20.06.2007, which is impugned herein.

This Court finds that these types of applications are made from time to time at the

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instance of persons who claim themselves to be the Karmapa. Learned counsel for the State submits that any and everybody cannot claim himself to be the Karmapa. For those like us coming from outside Sikkim, it is easy to understand that the affairs of a Math or its property cannot be made the subject matter of a suit by any and everybody simply by claiming himself to be the proper and authorized Mahant of the Math, without producing sufficient support, at least prima facie, for his case. The Karmapa is no less than the top Mahant for many a Monastery in Sikkim.

Apart from the State the other respondents have not been served. It was submitted by the State that this is not a bona fide application and the writ should be summarily dismissed with costs assessed at Rs.10,000/-. In my opinion the State's case is substantially right and this application is in the nature of speculative litigation, which attempts to get a snap order in a thoroughly bad suit, if somehow that can be obtained.

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		The order and observations herein, however worded, are without prejudice to the rights and contentions of the parties in the suit. The allegations in the petition cannot be taken to be admitted ~~and~~ on the part of the respondents since I have not permitted the filing of any affidavit in opposition. The application is summarily dismissed with costs assessed at Rs.5,000/- in favour of the State and the learned junior counsel of the applicant plaintiff, who practices in Sikkim, is entrusted with the responsibility of seeing to it that the payment is duly made within the period of a fortnight from today. A.N. Ray (A.N. Ray, CJ)	A certified Copy forwarded to the Senior Judge, Sp. Div I Gangtok on 4-10-07. 4/10